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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,942	12/10/2003	Kiyoshi Terauchi	018842.1285	6287

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EXAMINER

LESLIE, MICHAEL S

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,942

Applicant(s)

TERAUCHI ET AL.

Examiner

Michael Leslie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Applicant's arguments filed February 3, 2006 have been fully considered but they are not persuasive. Claim 3 has been canceled. Claims 1, 2, 4, and 5 are pending.

The amendment of claim 1 to include the limitations of claim 3 has overcome the rejections under 35 U.S.C. 102(a) with respect to the Fukai et al (6398519).

Applicant has generally argued that Fujii et al (6467296) fails to disclose the limitation "the contact surfaces are continuously formed between the engaging portions through the sidewall portion" with attention drawn to Applicant's Fig. 4. This statement is not agreed with. With respect to Fig. 2 of Fujii et al and MPEP 2125, the feature recited above is disclosed.

2125 Drawings as Prior Art

DRAWINGS CAN BE USED AS PRIOR ART

Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. *In re Mraz*, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972). However, the picture must show all the claimed structural features and how they are put together. *Jockmus v. Leviton*, 28 F.2d 812 (2d Cir. 1928). The origin of the drawing is immaterial. For instance, drawings in a design patent can anticipate or make obvious the claimed invention as can drawings in utility patents. When the reference is a utility patent, it does not matter that the feature shown is unintended or unexplained in the specification. The drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art. *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979). See MPEP § 2121.04 for more information on prior art drawings as "enabled disclosures." (*Emphasis added.*)

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(a) as being anticipated by Fujii et al (6467296).

Fujii et al. disclose a swash-plate compressor for compressing a fluid, the compressor comprising a cylinder block (13) having a cylinder bore, a piston (26) having a first end portion reciprocally movable in the cylinder bore and a second end portion opposite to the first end portion, the second end portion having a pair of engaging portions faced to each other with a space left therebetween and a side wall portion connecting the engaging portions to each other, a swash plate (22) having a part inserted between the engaging portions and driven to rotate, and a pair of sliding members (23, 24) interposed between the engaging portions and the swash plate, respectively, each of the sliding members having a cylindrical portion (not numbered) with a flat surface slidably contacted with the swash plate and a spherical portion opposite to the cylindrical portion, each of the engaging portions having a contact surface (26a) slidably contacted with the spherical portion, each of the contact surfaces extending to the side wall portion. Wherein the contact surfaces are connected to each other through the side wall portion, the contact surfaces are continuously formed between the engaging portions through the side wall portion, the contact surface is formed along a spherical surface having a curvature equal to that of the spherical portion, and wherein a carbon dioxide refrigerant is used as the fluid.

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Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6575708 discloses a piston having contact surfaces continuously formed between the engaging portions.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML
March 3, 2006


Michael Leslie
Patent Examiner
AU 3745